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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,536	12/05/2001	Jason F. Hunzinger	440402000400	2790

25224 7590 07/27/2004  
MORRISON & FOERSTER, LLP  
555 WEST FIFTH STREET  
SUITE 3500  
LOS ANGELES, CA 90013-1024

EXAMINER

SOBUTKA, PHILIP

ART UNIT	PAPER NUMBER
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2684

18

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/010,536

Applicant(s)

HUNZINGER, JASON F.5

Examiner

Philip J. Sobutka

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 11, 20, 24, 31, 35, 37, 44, 48, 49, 58, 62, 69, 73 and 75 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 12-19, 21-23, 25-30, 32-34, 36, 38-43, 45-47, 50-57, 59-61, 63-68, 70-72 and 74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12, 15-17.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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Commissioner of Patents and Trademarks

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. Claims 1-3, 6, 8, 9, 12-16, 19, 21, 22, 25-27, 29, 30, 32-34, 36, 38, 39, 40, 43, 45, 46, 50-54, 57, 59, 60, 63-65, 67, 68, 70, 71, 72, 74 are rejected under 35 U.S.C. 102(b) as being anticipated by Bodin et al (US 5,301,356).

Consider claims 38,52,72,74. Bodin teaches a system comprising identifying a mobile station having potentially failing connection (i.e. in need of hand-off) (Bodin see especially col 3, lines 7-24), transmitting a rescue channel (Bodin see especially col 3, lines 31-35), monitoring reverse channels (Bodin see especially col 8, line 61 – col 9, line 24) the rescue channel including a synchronization message specific to the mobile (Bodin see especially col 6, lines 18-28), receiving the message at the mobile, and handing off the mobile in accordance with the handoff information (Bodin see especially fig 6). Note that the handoff would of course entail transmitting on the forward and reverse channel according to the handoff information, and that Bodin's mobile includes a control processor (boding see especially fig 2, item 130).

As to claims 1,12,14,25,32,34,36,50, the system of Bodin would perform the claimed steps.

As to claims 26,64,70,71, the mobile of Bodin would perform the claimed steps.

As to claims 2,15,39,53, note that Bodin teaches updating the rescue channels when calls are handed off (Bodin see especially col 9, line 59 – col 10, line 14).

As to claims 3,8,13,16,21,27,33,40,45,46,51,54,57,59,63,65,68, note that Bodin teaches using specific codes so that only the mobile having the code can successfully demodulate the channel (Bodin see especially col 6, lines 18-28).

As to claims 6, 9,19,29,43,67, note that Bodin would have a specific rescue channel for each mobile (Bodin see especially col 6, lines 18-28).

As to claims 22,60, note that Bodin teaches the use of TDMA that transmits separate messages in sequential time slots (Bodin see especially col 5, lines 19-36).

As to claim 30, note that communication is maintained till hand off is complete.

***Claim Rejections - 35 USC § 103***

2. Claims 4,17,28,41,55,66, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodin in view of Gavrilovich (US 5,729,826).

Bodin teaches everything claims as shown above except for the coding being orthogonal codes. Gavrilovich teaches that orthogonal coding in a mobile system with 7 control bits and 9 identification bits allows for 3,854 unique identities (Gavrilovich col 8, lines 29-55). It would have been obvious to one of ordinary skill in the art to modify Bodin to use the orthogonal coding of Gavrilovich allowing 7 control bits and 9 id bits to provide 3,854 unique identities.

3. Claims 5,18,42,56, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodin in view of Quick, Jr. (US 5,673,259).

Bodin teaches everything claims as shown above except for the code mask being generated using the channel number and local parameters. Quick teaches that the preferred method for generating the code mask is by using the channel number and

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local parameters (Quick see especially col 13, lines 8-32). It would have been obvious to one of ordinary skill in the art to modify Bodin to generate masks as shown in the claims in order to use a well known and preferred technique as taught by Quick.

4. Claims 10,23,47,61, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodin in view of Raith et al (US 5,081,671).

Bodin teaches everything claims as shown above except for the rescue channels being reserved even when not needed. Raith teaches a rescue channel system in which certain numbers of channels are reserved even when not needed (Raith col 3, line 65 – col 4, line 9). Raith teaches that the reduced blockage is worth the sacrifice of capacity (Raith col 3, lines 20-35). It would have been obvious to one of ordinary skill in the art to modify Bodin to reserve rescue channels in order to reduce call blocking as taught by Raith.

#### ***Allowable Subject Matter***

5. Claims 7,11,20,24,31,35,37,44,48,49,58,62,69,73,75 are allowed.

#### ***Response to Arguments***

6. Applicant's arguments filed March 31, 2003 have been fully considered but they are not persuasive.

7. Applicant's arguments all seem to be based on the fact that the cited references do not specify that the new channels in the reference are not referred to as "rescue" channels. Note however, that every handoff is in fact a "rescue" of a potentially failing connection. The claims do not distinguish the claimed "rescue" channels over the prior art hand off channels, and the specification does not appear to set forth a definition that

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would distinguish. Applicant has referred to the rescue channels as "temporary" but again this is not defined in the claims. If the applicant can amend the claim to distinguish the claimed rescue channels over the prior art hand off channels, then the claims would overcome the prior art.

***Conclusion***

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Sobutka whose telephone number is 703-305-4825. The examiner can normally be reached on Monday-Friday 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip Sobutka  
(703) 305-4825

July 23, 2004

  
**NAY MAUNG**  
**SUPERVISORY PATENT EXAMINER**